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(2) If the agency has accepted an installment plan, there is no fault or lack of good faith on the part of the debtor, and the amount of interest is large enough in relation to the size of the debt and the amount of the installments that the debtor can reasonably afford to pay so that the debt can never be repaid, or

(3) If repayment of the full amount of the debt is made after the date upon which interest and other charges became payable and the estimated costs of recovering the residual interest balance exceed the amount owed the Agency.

(c) Where a mandatory waiver or review statute applies, interest and related charges may not be assessed for those periods during which collection action must be suspended.

§ 20.62 Responsibilities of the Chief Financial Officer.

The Chief Financial Officer, or his or her designee, shall provide appropriate and binding written or other guidance to Department of Labor agencies and officials in carrying out this subpart, including the issuance of guidelines and instructions, which he or she may deem appropriate. The Chief Financial Officer shall also take such administrative steps as may be appropriate to carry out the purposes and ensure the effective implementation of this regulation.

Subpart D—Salary Offset

SOURCE: 52 FR 3772, Feb. 5, 1987, unless otherwise noted.

§ 20.74 Purpose.

(a) The regulations in this subpart establish procedures to implement section 5 of the Debt Collection Act of 1982 (Pub. L. 97-365), 5 U.S.C. 5514. This statute authorizes the head of each agency to deduct from the current pay account of an employee (*salary offset*) when the employee owes money to the United States. This subpart specifies the agency procedures that will be available in a *salary offset* by the Department of Labor of an employee's current pay account.

(b) Administrative offset is defined in 31 U.S.C. 3701(a)(1) as “withholding

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money payable by the United States Government, to or held by the Government for a person to satisfy a debt the person owes the Government.”

A salary offset is a form of administrative offset and is separately authorized and governed by 5 U.S.C. 5514. This authority is consistent with and supplemented by administrative offset regulations of subpart B of 29 CFR part 20.

§ 20.75 Scope.

(a) This subpart applies to debts owed to the United States (arising under Labor Department programs) by Labor Department employees, debts owed to the United States (arising under Labor Department programs) by employees of other Federal agencies, and debts owed the United States (arising under programs of other Federal agencies) by Labor Department employees. *Other agency* means:

(1) An executive agency as defined in section 105 of title 5 U.S.C. (but not including the Labor Department), including the U.S. Postal Service and the U.S. Postal Rate Commission;

(2) A military Department as defined in section 102 of title U.S.C.;

(3) An agency or court in the judicial branch, including a court as defined in section 610 of title 28 U.S.C., the District Court for the Northern Mariana Islands, and the Judicial Panel on Multidistrict Litigation;

(4) An agency of the legislative branch, including the U.S. Senate and the U.S. House of Representatives; and

(5) Other independent establishments that are entities of the Federal Government.

(b) The procedures contained in this subpart do not apply to debts or claims arising under the Internal Revenue Code of 1954 as amended (26 U.S.C. 1 *et seq*), the Social Security Act (42 U.S.C. 301 *et seq*), or the tariff laws of the United States; or to any case where collection of a debt by salary offset is explicitly provided for or prohibited by another statute (e.g.) travel advances in 5 U.S.C. 5705 and employee training expenses in 5 U.S.C. 4108.

(c) This subpart does not preclude an employee from requesting waiver of a salary overpayment under 5 U.S.C. 5584, 10 U.S.C. 2774, or 32 U.S.C. 716, or in any way questioning the amount or

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validity of a debt by submitting a subsequent claim to the Government Accountability Office in accordance with procedures prescribed by the Government Accountability Office. Similarly, in the case of other types of debts, this subpart does not preclude an employee from requesting waiver, if waiver is available under any statutory provisions pertaining to the particular debt being collected.

[52 FR 3772, Feb. 5, 1987, as amended at 72 FR 37098, July 9, 2007]

§ 20.76 Definitions.

(a) *Disposable pay* means that part of current basic pay, special pay, incentive pay, retired pay, retainer pay, or in the case of an employee not entitled to basic pay, other authorized pay remaining after the deduction of any amount required by law to be withheld. Agencies must exclude deductions described in 5 CFR 581.105 paragraphs (b) through (f) to determine disposal pay subject to salary offset.

(b) As used in this subpart, the terms *claim* and *debt* are deemed synonymous and interchangeable. A *debt* means an amount owed to the United States from sources which include loans insured or guaranteed by the United States and all other amounts due the United States from fees, leases, rents, royalties, services, sales of real or personal property, overpayments, penalties, damages, interest, fines and forfeitures (except those arising under the Uniform Code of Military Justice), and all other similar sources.

(c) *Employee* means a current employee of an agency, including a current member of the Armed Forces or a Reserve of the Armed Forces (Reserves).

(d) *Paying agency* means the agency employing the individual and authorizing the payment of his or her current account.

(e) *Credit agency* means the agency to which the debt is owed.

(f) *Salary offset* means an administrative offset to collect a debt under 5 U.S.C. 5514 by deduction(s) at one or more officially established pay intervals from the current pay account of an employee without his or her consent.

(g) *FCCS* means the Federal Claims Collection Standards jointly published by the Justice Department and the Government Accountability Office at 4 CFR 101.1 *et seq.*

(h) *Waiver* means the cancellation, remission, forgiveness, or non-recovery of a debt allegedly owed by an employee to an agency as permitted or required by 5 U.S.C. 5584, 10 U.S.C. 2774, or 32 U.S.C. 716, 5 U.S.C. 8346(b), or any other law.

[52 FR 3772, Feb. 5, 1987, as amended at 72 FR 37098, July 9, 2007]

§ 20.77 Agency responsibilities.

(a) Each Department of Labor agency which has delinquent debts owed under its program and administrative activities is responsible for collecting its claims by means of salary offset, in accordance with guidelines established by the Chief Financial Officer.

(b) Before collecting a claim by means of salary offset, the responsible agency should be satisfied that salary offset is feasible, allowable and appropriate, and, as otherwise provided in these regulations, must notify the debtor of the Department's policies for collecting a claim by means of salary offset.

(c) Whether collection by salary offset is feasible is a determination to be made by the creditor agency on a case-by-case basis, in the exercise of sound discretion. Agencies shall consider not only whether salary offset can be accomplished, both practically and legally, but also whether offset is best suited to further and protect all of the Government's interests. In appropriate circumstances, agencies may give due consideration to the debtor's financial condition, and are not required to use offset of the full or partial amount of the claim in every instance in which there is an available source of funds.

(d) Before advising the debtor that the delinquent debt will be subject to salary offset, the agency head (or designee) responsible for administering the program under which the debt arose shall review the claim and determine that the debt is valid and overdue. In the case where a debt arises under the programs of two or more Department of Labor agencies, or in such other instances as the Chief Financial